

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISIO

PATRICIA COMBS,

Plaintiff,

v.

CIVIL ACTION NO. 2:14-cv-12837

BOSTON SCIENTIFIC CORPORATION,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending is Defendant Boston Scientific Corporation's Motion to Dismiss with Prejudice, filed February 21, 2019. [ECF No. 19]. Defendant Boston Scientific Corporation ("BSC") seeks dismissal of plaintiff's case with prejudice based on her failure to file a Plaintiff Fact Sheet pursuant to Pretrial Order Number 202. Plaintiff has not responded to the motion.

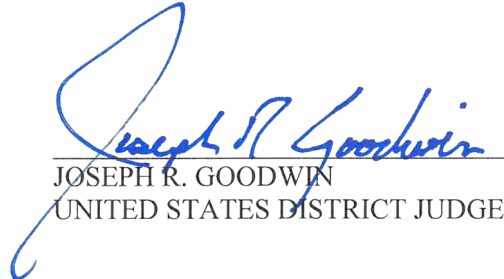
The court finds, pursuant to Rules 16 and 37 of the Federal Rules of Civil Procedure and after weighing the factors identified in *Wilson v. Volkswagen of Am., Inc.*, 561 F.2d 494, 503-06 (4th Cir. 1977), that BSC should be dismissed without prejudice from this case for failure to serve a Plaintiff Fact Sheet in compliance with the court's previous pretrial order.

Therefore, the court **ORDERS** that the motion to dismiss (ECF No. 19) is **GRANTED in part** to the extent BSC seeks dismissal and **DENIED insofar as BSC**

seeks dismissal with prejudice. The court **ORDERS** that BSC is dismissed without prejudice, and this case is closed and stricken from the court's docket.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: December 6, 2019



JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE